

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of §
Amendment of the §
Commission's Rules to §
Permit Flexible Service Offerings §
in Commercial Mobile Radio Services §

WT Docket No. 96-6

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Reply Comments of SBC Communications Inc.

SBC Communications Inc. ("SBC"), by its Attorneys, hereby submits its Reply Comments on the Commission's Notice of Proposed Rulemaking in the above captioned proceeding.¹ SBC filed comments on March 1, 1996, in this proceeding. This reply is intended to supplement those comments and respond to a specific argument raised by one of the participants in the proceeding.

**Structural Separation Requirements Should Not Be Created
and Retroactively Applied To PCS Licensees**

Comcast Corporation ("Comcast") has filed comments in which it proposes the imposition of full structural separation requirements upon any provision of CMRS service by a local exchange company ("LEC"), a position that the Commission specifically rejected in the

¹See Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services Notice of Proposed Rulemaking, WT Docket No. 96-6 (released January 25, 1996) ("NPRM").

case of PCS service and also rejected in the case of CMRS generally. [8 FCC Rcd 7700 at paragraphs 112 to 127 & footnote 98] and [9 FCC Rcd 1411 at paragraphs 214 to 219].

Comcast supports this position with ill conceived and unsubstantiated fears of anti-competitive preferences for those LECs that may also provide CMRS service in the same region where the LEC provides landline local exchange service. Comcast's "fears" are even more ludicrous in light of non-structural safeguards embodied in the rules and regulations propounded by the Commission, such as the non-discriminatory interconnection rules² and the panoply of cost accounting and related regulations which prevent cross-subsidization³.

Comcast advocates a structural separation requirement similar to the cellular separation requirement on Regional Bell Operating Company ("RBOC") affiliates. [47 CFR 22.903]. Comcast proposes to have the structural separation requirements imposed on all LEC affiliated cellular, paging, PCS operations. These are positions the Commission has already specifically rejected in the recent PCS and CMRS proceedings. Further, the Commission rejected the notion that all LEC affiliated cellular operations had to be structurally separate over 10 years ago and they have been operating without such structural separation for over a decade. Comcast's argument cannot be justified on a cost/benefit basis with respect to consumers and does not comport with either regulatory parity⁴ or regulatory reality. This argument was made

²In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Service; 8 FCC Rcd 7700, Second Report and Order, Paragraph 115, Footnote 96.

³See 47 CFR 32.23, 32.27, 64.901, 64.902, 64.903.

⁴In light of the Commission's agenda of promoting "regulatory parity" (that is, the equivalent treatment of all CMRS providers) SBC has argued 22.903 should be rescinded as its

repeatedly to and rejected repeatedly by the Commission.

Participants in the PCS bidding process, including RBOCs, have spent billions of dollars on PCS licenses in good faith reliance that they would be operating under the rules in place at the time of bidding, which did not require structural separation. Indeed, the Commission specifically addressed the public benefits from integration of wired and wireless services. If the LECs had known structural separation was a possibility, the bidders may have abstained from bidding or they may have bid on other licenses, out of region. Imposing structural separation requirements after billions have been spent is an unconscionable result.

Comcast has provided no credible evidence that there has been any abuse by non-BOC landline and cellular operators who have operated without structural separation requirements for over 10 years. Competition by independent firms in such markets is every bit as vigorous as in BOC markets where offerings to the public by the BOCs have been severely and needlessly constrained and where the existing nonstructural safeguards are more than adequate to address any theoretical interconnection or cross-subsidization concerns. This history, rather than Comcast's vague and unsubstantiated fears, is the best evidence that abuse cannot and will not occur if there is no mandated structural separation.

original intent has been displaced by competition and new entrants into the wireless arena and that existing nonstructural safeguards effectively protect the public interest. In contrast, Comcast asks the Commission to take a step back and impose this beleaguered requirement ex post facto on PCS licensees and on non-BOC affiliated, cellular, paging and other CMRS licensees.

Conclusion

For the reasons stated herein and in SBC's comments filed March 1, 1996, the Commission should not reverse its recent decisions not to impose structural separation requirements on LEC affiliated CMRS services.

Respectfully submitted,

SBC Communications Inc.

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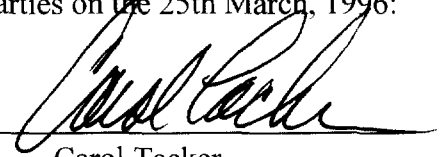
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I hereby certify that a true and correct copy of the foregoing Reply Comments will be mailed via first class mail, postage prepaid, to the following parties on the 25th March, 1996:



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